

Introduced by Senator Leno

January 16, 2015

An act to amend Sections 225, 226, 229, 230, and 240 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as introduced, Leno. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come or remain in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would prohibit a person confined in a juvenile facility who is a danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, from being subject to solitary confinement, and would require that the person be transported to, and evaluated at, a designated facility. The bill would also prohibit a person, other than one described above, who is detained in any secure state or local juvenile facility from being subject to solitary confinement unless certain conditions are satisfied, including that the person poses an immediate and substantial risk of harm to the security of the facility, poses an immediate and substantial risk of harm to others that is not the result

of a mental disorder, or poses a risk of harm to himself or herself that is not a result of a mental disorder. The bill would permit, if those conditions are satisfied, the person to be held in solitary confinement only in accordance with specified guidelines, including that the person be held in solitary confinement only for the minimum time required to address the risk, and that does not compromise the mental and physical health of the person, but no longer than 4 hours. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens.

Existing law also establishes a probation commission, consisting of not less than 7 members, in lieu of a juvenile justice commission in counties with a population in excess of 6,000,000.

This bill would increase the membership of a regional juvenile justice commission to no less than 10 members and would require a probation commission to include 2 or more members who are 14 to 21 years of age, inclusive. The bill would also require that 2 or more members of a juvenile justice commission, a regional juvenile justice commission, or a probation commission be parents or guardians of previously or currently incarcerated youth, and one member be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections.

This bill would instead require a juvenile justice commission and a probation commission to inspect any jail, lockup, or facility that, in the preceding calendar year, was used for confinement for more than 24 hours of any person and would require, as a part of that inspection, a

review of the records of the jail, lockup, or facility relating to the use of solitary confinement. The bill would require the commission to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the Board of State and Community Corrections, and the county board of supervisors. The bill would require the commission to annually present its report at a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government's Internet Web site or other publicly accessible medium.

By increasing the duties of local commissions and county boards of supervisors, this bill would impose a state-mandated local program.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) "Juvenile facility" includes any of the following:
- 6 (A) A juvenile hall, as described in Section 850.
- 7 (B) A juvenile camp or ranch, as described in Article 24
- 8 (commencing with Section 880).

1 (C) A facility of the Department of Corrections and
2 Rehabilitation, Division of Juvenile Facilities.

3 (D) A regional youth educational facility, as described in Section
4 894.

5 (E) A youth correctional center, as described in Article 9
6 (commencing with Section 1850) of Chapter 1 of Division 2.5.

7 (F) Any other local or state facility used for the confinement of
8 minors or wards.

9 (2) “Minor” means a person who is any of the following:

10 (A) A person under 18 years of age.

11 (B) A person under the maximum age of juvenile court
12 jurisdiction who is confined in a juvenile facility.

13 (C) A person under the jurisdiction of the Department of
14 Corrections and Rehabilitation, Division of Juvenile Facilities.

15 (3) “Solitary confinement” means the placement of an
16 incarcerated person in a locked room or cell alone with minimal
17 or no contact with persons other than guards, correctional facility
18 staff, and attorneys. Solitary confinement does not include
19 confinement of a person in a single-person room or cell for brief
20 periods of locked-room confinement necessary for required
21 institutional operations, including, but not limited to, shift changes,
22 showering, and unit movements.

23 (4) “Ward” means a person who has been declared a ward of
24 the court pursuant to subdivision (a) of Section 602.

25 (b) A person confined in a juvenile facility who is a danger to
26 himself, herself, or others as a result of a mental disorder, or who
27 is gravely disabled, as defined in subdivision (h) of Section 5008,
28 shall not be subject to solitary confinement, and shall be transported
29 to, and evaluated at, a designated facility, as defined in subdivision
30 (n) of Section 5008, pursuant to section 5150 or Section 5585.50.

31 (c) A person confined in any secure state or local juvenile
32 facility, and who is not described in subdivision (b), shall be subject
33 to solitary confinement only if all of the following are true:

34 (1) The person poses an immediate and substantial risk of harm
35 to the security of the facility, the person poses an immediate and
36 substantial risk of harm to others that is not the result of a mental
37 disorder, or the person poses a risk of harm to himself or herself
38 that is not a result of a mental disorder.

39 (2) All other less-restrictive options to address the risk have
40 been attempted and exhausted.

1 (3) The performance of solitary confinement is done in
2 accordance with the following guidelines:

3 (A) The person may be held in solitary confinement only for
4 the minimum time required to address the risk, and for a period of
5 time that does not compromise the mental and physical health of
6 the minor or ward, but not to exceed four hours. After the person
7 is held in solitary confinement, the person shall be returned to
8 regular programming or placed in individualized programming
9 that does not involve solitary confinement. If it appears during the
10 time a person is held in solitary confinement that the person is
11 suffering from a mental disorder, and consultation with a qualified
12 mental health professional determines that it is appropriate, the
13 person shall be transported to a mental health facility.

14 (B) If a person in solitary confinement poses a risk of harm to
15 himself or herself that is not a result of a mental disorder, the
16 condition of the person shall be monitored closely by a qualified
17 mental health professional. If a qualified mental health professional
18 determines that the person cannot be safely released from solitary
19 confinement, the person shall be transported to a mental health
20 facility or hospital for the development and implementation of an
21 individualized suicide crisis intervention plan.

22 (C) The use of consecutive periods of solitary confinement shall
23 be prohibited.

24 (d) Solitary confinement shall not be used for the purposes of
25 discipline, punishment, coercion, convenience, or retaliation by
26 staff.

27 (e) Each local and state juvenile facility shall document the
28 usage of solitary confinement, including all of the following:

29 (1) The name of the person subject to solitary confinement.

30 (2) The date and time the person was placed in solitary
31 confinement.

32 (3) The date and time the person was released from solitary
33 confinement.

34 (4) The name and position of person authorizing the placement
35 of the person in solitary confinement.

36 (5) The names of staff involved in the incident leading to the
37 use of solitary confinement.

38 (6) A description of circumstances leading to use of solitary
39 confinement.

(7) A description of alternative actions and sanctions attempted and found unsuccessful.

(8) The dates and times when staff checked in on the person when he or she was in solitary confinement, and the person's behavior during the check.

(f) The records described in subdivision (e), excluding any identifying information, shall be available for public inspection pursuant to the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) This section is not intended to limit the use of single-person rooms or cells for the housing of persons in juvenile facilities.

(h) This section does not apply to minors or wards in court holding facilities or adult facilities.

(i) Nothing in this section shall be construed to conflict with any law providing greater or additional protections to minors or wards.

SEC. 2. Section 225 of the Welfare and Institutions Code is amended to read:

225. (a) In each county there shall be a juvenile justice commission consisting of not less than 7 and no more than 15 citizens. Two or more of the members shall be persons who are ~~between 14 and 21 years of age, provided there are available persons between 14 and 21 years of age who are able to carry out the duties of a commission member in a manner satisfactory to the appointing authority.~~ *14 to 21 years of age, inclusive. Two or more of the members shall be parents or guardians of previously or currently incarcerated youth. One member shall be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.* Each person serving as a member of a probation committee immediately prior to September 15, 1961, shall be a member of the juvenile justice commission and shall continue to serve ~~as such until such time as~~ his or her term of appointment as a member of the probation committee would have expired under any prior ~~provision of law.~~ Upon a vacancy occurring in the membership of the ~~commission~~ *commission*, and upon the expiration of the term of office of any member, a successor shall be appointed by the presiding judge of the superior court with the concurrence of the judge of the juvenile court or, in a county having more than one judge of the juvenile

1 court, with the concurrence of the presiding judge of the juvenile
2 court for a term of four years. ~~When~~ *If* a vacancy occurs for any
3 reason other than the expiration of a term of office, the appointee
4 to fill ~~such~~ *the* vacancy shall hold office for the unexpired term of
5 his or her predecessor.

6 (b) Appointments may be made by the presiding judge of the
7 superior court, in the same manner designated in this section for
8 the filling of vacancies, to increase the membership of a
9 commission to the maximum of 15 *members* in any county ~~which~~
10 *that* has a commission with a membership of less than 15 members.

11 (c) In any county in which the membership of the commission,
12 on the effective date of amendments to this section enacted at the
13 1971 Regular Session of the Legislature, exceeds the maximum
14 number permitted by this section, no additional appointments shall
15 be made until the number of commissioners is less than the
16 maximum number permitted by this section. In any case, such
17 county's commission membership shall, on or after January 1,
18 1974, be no greater than the maximum *number* permitted by this
19 section.

20 SEC. 3. Section 226 of the Welfare and Institutions Code is
21 amended to read:

22 226. In lieu of county juvenile justice commissions, the boards
23 of supervisors of two or more adjacent counties may agree to
24 establish a regional juvenile justice commission consisting of not
25 less than ~~eight~~ *ten* citizens, and having a sufficient number of
26 members so that their appointment may be equally apportioned
27 between the participating counties. Two or more of the members
28 shall be persons who are ~~between 14 and 21 years of age, provided~~
29 ~~there are available persons between 14 and 21 years of age who~~
30 ~~are able to carry out the duties of a commission member in a~~
31 ~~manner satisfactory to the appointing authority. 14 to 21 years of~~
32 *age, inclusive. Two or more of the members shall be parents or*
33 *guardians of previously or currently incarcerated youth. One*
34 *member shall be a licensed psychiatrist, licensed psychologist, or*
35 *licensed clinical social worker with expertise in adolescent*
36 *development.* The presiding judge of the superior court with the
37 concurrence of the judge of the juvenile court or, in a county having
38 more than one judge of the juvenile court, with the concurrence
39 of the presiding judge of the juvenile court of each of the
40 participating counties shall appoint an equal number of members

1 to the regional justice commission and ~~they~~ *the members* shall hold
2 office for a term of four years. Of those first appointed, however,
3 if the number of *members* appointed ~~be~~ is an even number, ~~half~~
4 *one-half* shall serve for a term of two years and ~~half~~ *one-half* shall
5 serve for a term of four ~~years~~ *and if years*. If the number of
6 members first appointed ~~be~~ is an odd number, the greater number
7 nearest ~~half~~ *one-half* shall serve for a term of two years and the
8 remainder shall serve for a term of four years. The respective terms
9 of the members first appointed shall be determined by lot as soon
10 as possible after their appointment. Upon a vacancy occurring in
11 the membership of the ~~commission~~ *commission*, and upon the
12 expiration of the term of office of any member, a successor shall
13 be appointed by the presiding judge of the superior court with the
14 concurrence of the judge of the juvenile court or, in a county having
15 more than one judge of the juvenile court, with the concurrence
16 of the presiding judge of the juvenile court of the county ~~which~~
17 *that* originally appointed ~~such~~ *the* vacating or retiring member.
18 ~~When~~ *If* a vacancy occurs for any reason other than the expiration
19 of a term of office, the appointee shall hold office for the unexpired
20 term of his or her predecessor.

21 SEC. 4. Section 229 of the Welfare and Institutions Code is
22 amended to read:

23 229. (a) It shall be the duty of a juvenile justice commission
24 *or a probation commission* to inquire into the administration of
25 the juvenile court law in the county or region in which the
26 commission serves. For this purpose the commission shall have
27 access to all publicly administered institutions authorized or whose
28 use is authorized by this chapter situated in the county or region,
29 shall inspect ~~such institutions no less frequently than those~~
30 *institutions at least once a year*, and may hold *public* hearings. A
31 judge of the juvenile court ~~shall have the power to~~ *may* issue
32 subpoenas requiring attendance and testimony of witnesses and
33 production of papers at hearings of the commission.

34 (b) A juvenile justice commission *or probation commission*
35 shall annually inspect any ~~jail or lockup~~ *jail, lockup, or facility*
36 within the county ~~which~~ *that*, in the preceding calendar ~~year~~ *year*;
37 was used for confinement for more than 24 hours of any ~~minor~~ *person*. ~~It~~
38 *As a part of the annual inspection, a juvenile justice*
39 *commission or probation commission shall review the records of*
40 *the jail, lockup, or facility relating to the use of solitary*

1 *confinement, as defined in paragraph (3) of subdivision (a) of*
2 *Section 208.3. The commission shall report the results of—such*
3 *inspection the inspection, together with its recommendations based*
4 *thereon, in writing, to the juvenile—court court, the county board*
5 *of supervisors, and to the Board of State and Community*
6 *Corrections. The report shall be presented annually as part of a*
7 *regularly scheduled public meeting of the county board of*
8 *supervisors, and may be published on the county government’s*
9 *Internet Web site.*

10 SEC. 5. Section 230 of the Welfare and Institutions Code is
11 amended to read:

12 230. A juvenile justice commission *or probation commission*
13 *may recommend to any person charged with the administration of*
14 *any of the provisions of this chapter—such those changes—as it has*
15 *concluded, after investigation, will be beneficial. A commission*
16 *may publicize its recommendations: recommendations on the*
17 *county government’s Internet Web site or other publicly accessible*
18 *medium.*

19 SEC. 6. Section 240 of the Welfare and Institutions Code is
20 amended to read:

21 240. In counties having a population in excess of 6,000,000 in
22 lieu of a county juvenile justice commission, there shall be a
23 probation commission consisting of not less than seven members
24 who shall be appointed by the same authority as that authorized
25 to appoint the probation officer in that county. *Two or more of the*
26 *members shall be 14 to 21 years of age, inclusive. Two or more*
27 *of the members shall be parents or guardians of previously or*
28 *currently incarcerated youth. One member shall be a licensed*
29 *psychiatrist, licensed psychologist, or licensed clinical social*
30 *worker with expertise in adolescent development.*

31 SEC. 7. The Legislature finds and declares that Section 1 of
32 this act, which adds Section 208.3 to the Welfare and Institutions
33 Code, imposes a limitation on the public’s right of access to the
34 meetings of public bodies or the writings of public officials and
35 agencies within the meaning of Section 3 of Article I of the
36 California Constitution. Pursuant to that constitutional provision,
37 the Legislature makes the following findings to demonstrate the
38 interest protected by this limitation and the need for protecting
39 that interest:

1 In order to protect the privacy and medical information of
2 persons confined in secure state and local juvenile facilities and
3 held in solitary confinement, it is necessary that identifying
4 information about those persons be kept confidential.

5 SEC. 8. If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.